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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,972	03/21/2008	Ryszard Sprycha	5865302166	4612
96610 7590 06/24/2010 Kramer Levin Naftalis & Frankel LLP 1177 Avenue of the Americas New York, NY 10036-2714				
EXAMINER KOLB, NATHANIEL J				
ART UNIT		PAPER NUMBER		
2856				
MAIL DATE		DELIVERY MODE		
06/24/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/522,972

**Applicant(s)**

SPRYCHA ET AL.

**Examiner**

NATHANIEL KOLB

**Art Unit**

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2005.  
2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.  
4a) Of the above claim(s) 12-40 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.  
7) ☒ Claim(s) 1-11 is/are objected to.  
8) ☒ Claim(s) 12-40 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO/SB-06)  
4) ☐ Interview Summary (PTO-413)  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_  
Paper No(s)/Mail Date \_\_\_\_\_

## **DETAILED ACTION**

### ***Summary***

1. Claims 12-40 have been withdrawn due to restriction. The specification and drawings are objected to due to informalities. This is an Ex parte Quayle action.

### ***Election/Restrictions***

2. This application contains claims directed to the following patentably distinct species: using a densitometer, capillary tubes, or electrodes to measure the drying rate of a liquid. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the

election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Attorney for applicant Charles Achkar elected claims 1-11 in a telephone interview on June 15, 2010.

### ***Drawings***

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Graphs 1-19 are figures that need to be included as drawings, not as part of the specification. Furthermore, Graph 6 is unreadable and a clear copy needs to be submitted to the office. Therefore, the applicant should submit a new set of drawings that include Graphs 1-19 and a new specification that does not include Graphs 1-19. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid

abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

4. The drawings filed on February 1, 2005 are acceptable subject to the correction indicated above. In order to avoid abandonment of this application, correction is required in reply to the Office action. The correction will not be held in abeyance.

***Specification***

5. The specification is objected to for including graphs that should be submitted as drawings as indicated above. Please submit a new specification that does not include Graphs 1-19.

***Claim Objections***

6. Claim 1 is objected to because of the following informalities: steps should be lettered.
7. In claim 1 on line 10 insert "(a)" before "applying an amount".  
In claim 1 on line 14 insert "(b)" before "allowing the liquid".  
In claim 1 on line 16 insert "(c)" before "repeating steps".  
In claim 1 on line 23 insert "(d)" before "utilizing a densitometer".  
In claim 1 on line 26 insert "(e)" before "repeating steps".  
In claim 1 on line 27 insert "(f)" before "plotting the measured".
8. Appropriate correction is required.

***Allowable Subject Matter***

9. Claims 1-11 contain allowable subject matter.

10. The following is an examiner's statement of reasons for allowance: Independent claim 1 contains allowable subject matter. None of the prior art of record shows or fairly suggests the claimed invention. Specifically not found in the prior art is the limitation of repeatedly measuring the density of the tails of rollout proofs with a densitometer and plotting the results against a parameter related to time to form a curve which is representative of the drying rate of the liquid. The closest prior art of record is KAPUSNIAK et al. (US Pat. 6,475,602) which teaches that there is a connection between the optical density of printed ink and drying rate (col. 7 lines 45-63), but does not teach the method of taking several density measurements as recited in claim 1 of the present application.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

11. This application is in condition for allowance except for the following formal matters:

The specification contains graphs that should be submitted as drawings.

Claim 1 should include letters denoted the method steps.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NATHANIEL KOLB whose telephone number is 571-270-7601. The examiner can normally be reached on Mon-Fri 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NATHANIEL KOLB/  
Examiner, Art Unit 2856

/Hezron Williams/  
Supervisory Patent Examiner, Art  
Unit 2856